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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/854,287	05/11/2001	Akira Shirahama	SONYJP 3.0-164	8086
530	7590	02/25/2005	EXAMINER	
LERNER, DAVID, LITTENBERG, KRUMHOLZ & MENTLIK 600 SOUTH AVENUE WEST WESTFIELD, NJ 07090			YENKE, BRIAN P	
			ART UNIT	PAPER NUMBER
			2614	

DATE MAILED: 02/25/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

**Application No.**

09/854,287

**Applicant(s)**

SHIRAHAMA ET AL.

**Examiner**

BRIAN P. YENKE

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on RCE 19 Nov 04/Amendment 18 Oct 04.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-3 and 5-15 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-3 and 5-15 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- ☐ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Continued Examination Under 37 CFR 1.114***

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 19 Nov 04 has been entered.
2. Applicant's arguments filed 18 Oct 04 have been fully considered but they are not persuasive.

### ***Applicant's Arguments***

- a) Applicant states the '439 reference does not teach or suggest that the data changed by the televiewer is recorded in memory.

### ***Examiner's Response***

- b) The examiner disagrees. As the applicant pointed out, the '439 reference states "...a broadcast signal including genre data is processed for being converted into an appropriate signal according to a control signal previously stored in a memory thereby to provide a best condition for the view and audio. The '439 reference also states that the televiewer can change data for the video and audio established to fit the genre data at the time of manufacturing the set, and can adjust the current program being broadcasted to a certain data. Thus the control signal which may be changed by

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the televiewer is stored/recorded in memory 18. In the event, the applicant disagrees with the above response, the examiner would like the applicant to point out how the '439 reference stores/keeps the televiewer changed data.

### ***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1, 5-6, 8, 11-13 and 15 (claim 4 being cancelled) are rejected under 35

U.S.C. 102(e) as being anticipated by Kim, US 6,188,439.

In considering claim 1,

*a) the claimed an extracting unit operable to extract image data and audio data of a program selected by a user* is met by video and audio signal separation unit 8 (Fig 2) which separates the converted signal from processing unit 6 into a video signal and an audio signal (col 2, line 61-63), where the separated signal is the program/channel selected by the user via key input unit 20 (Fig 2).

*b) the claimed an obtaining unit operable to obtain information related to said selected program* is met by genre data detecting unit 14 (Fig 2) which detects genre data from the separated video signal input from the video and audio signal separation unit 8 (col 3, line 3-5).

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*c) the claimed a memory storing control parameters...* is met by memory 18 which stores the control data/parameters which are read out by control unit 16 based on the genre data/code (mode) detected from the incoming signal which includes the screen (brightness, color) and sound% (Fig 3). The televiewer can change data for the video and audio levels established to fit the genre data and can adjust the current program being broadcasted to a certain data set for video and audio levels response to genre data (abstract; col 4, line 15-23).

*d) the claimed a setting unit operable to set a control parameter for controlling an image data display or an audio data output of said selected program based on...* is met control unit 16 (Fig 2, col 3, line 11-21) which decodes the detected data by the genre data detection unit 14, and reads the video and audio control signal (stored in memory 18) corresponding to the genre data. The control data/parameters stored in memory 18 and read out by control unit 16 are based on the genre data/code (mode) detected from the incoming signal where the stored parameters include the screen (brightness, color) and sound% (Fig 3).

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In considering claim 5,

*The claimed further comprising an adjusting unit operable to adjust said control parameter in accordance with input from the user* is met where based upon the channel selected from the user via key input 20 and the genre is detected via detecting unit 14, the control unit 14 adjusts the video and audio control signal (stored in memory 18) corresponding to the genre data detected.

In considering claim 6,

*The claimed wherein said control parameter controls the brightness or the sharpness of said image data display* is met where based on the genre data/code (mode) detected from the incoming signal include the control parameters include the screen (brightness and color).

In considering claim 8,

*a) the claimed extracting image data and audio data...* is met by video and audio signal separation unit 8 (Fig 2) which separates the converted signal from processing unit 6 into a video signal and an audio signal (col 2, line 61-63), where the separated signal is the program/channel selected by the user via key input unit 20 (Fig 2).

*b) the claimed accessing at least one control parameter adjusted by the user corresponding to program genre data* is met by memory 18 which stores the control data/parameters which are read out by control unit 16 based on the genre data/code (mode) detected from the incoming signal which includes the screen (brightness, color) and sound% (Fig 3). The viewer can change data for the video and audio levels established to fit the genre data and can adjust the current program being broadcasted

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to a certain data set for video and audio levels response to genre data (col 4, line 15-23).

*c) the claimed an obtaining information related to said selected program* is met by genre data detecting unit 14 (Fig 2) which detects genre data from the separated video signal input from the video and audio signal separation unit 8 (col 3, line 3-5).

*d) the claimed setting a control parameter for controlling an image data display or an audio data output of said selected program based on the at least one control parameter adjusted by the user and said related information* is met by control unit 16 (Fig 2, col 3, line 11-21) which decodes the detected data by the genre data detection unit 14, and reads the video and audio control signal (stored in memory 18) corresponding to the genre data detected with the appropriate televiewer stored properties relating to that particular genre (Fig 3). The control data/parameters stored in memory 18 and read out by control unit 16 are based on the genre data/code (mode) detected from the incoming signal include the screen (brightness, color) and sound% (Fig 3).

In considering claim 11,

*The claimed further comprising storing said control parameter* is met by the control data/parameters stored in memory 18 and read out by control unit 16 are based on the genre data/code (mode) detected from the incoming signal include the screen (brightness, color) and sound% (Fig 3).

In considering claim 12,

*The claimed further comprising adjusting said control parameter in accordance with input from the user* is met where based upon the channel selected from the user via key

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input 20 and the genre is detected via detecting unit 14, the control unit 14 adjusts the video and audio control signal (stored in memory 18) corresponding to the genre data detected.

In considering claim 13,

*The claimed wherein said control parameter controls the brightness or the sharpness of said image data display* is met where based on the genre data/code (mode) detected from the incoming signal include the control parameters include the screen (brightness and color) considering claim 15,

a) *the claimed extracting image data and audio data of a program selected by a user* is met by video and audio signal separation unit 8 (Fig 2) which separates the converted signal from processing unit 6 into a video signal and an audio signal (col 2, line 61-63), where the separated signal is the program/channel selected by the user via key input b) *the claimed accessing from a memory at least one control parameter corresponding adjusted by the user corresponding to program genre data* is met by memory 18 which stores the control data/parameters which are read out by control unit 16 based on the genre data/code (mode) detected from the incoming signal which includes the screen (brightness, color) and sound% (Fig 3). The televiewer can change data for the video and audio levels established to fit the genre data and can adjust the current program being broadcasted to a certain data set for video and audio levels response to genre data (abstract; col 4, line 15-23).



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*c) the claimed an obtaining information related to said selected program is met by genre data detecting unit 14 (Fig 2) which detects genre data from the separated video signal input from the video and audio signal separation unit 8 (col 3, line 3-5).*

*d) the claimed setting a control parameter for controlling an image data display or an audio data output of said selected program based on the at least one control parameter adjusted by the user and said related information is met by control unit 16 (Fig 2, col 3, line 11-21) which decodes the detected data by the genre data detection unit 14, and reads the video and audio control signal (stored in memory 18) corresponding to the genre data detected with the appropriate televiewer stored properties relating to that particular genre (Fig 3). The control data/parameters stored in memory 18 and read out by control unit 16 are based on the genre data/code (mode) detected from the incoming signal include the screen (brightness, color) and sound% (Fig 3).*

### ***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein

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were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

4a. Claims 2-3 and 9-10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kim, US 6,188,439.

In considering claims 2 and 9,

Kim does not disclose the reception of a transport stream (i.e. digital signal).

Kim discloses a system, which receives a broadcast signal where the additional encoded information is included in the VBI, thus being an analog broadcast signal.

A broadcast signal can be in either/both an analog and/or digital form, based of course on the reception area and broadcasters and recipient's capabilities. It is also known that a digital broadcast signal provides a higher definition picture and typically provides an ideally better picture, of course based upon the reception area/receiver and transmission/broadcast capability. Additionally a transport stream typically includes more than one program. ~~The examiner takes "OFFICIAL NOTICE"~~ regarding a system, which is able to receive a transport stream (digital signal), where the image and audio data are extracted from the transport stream.

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify Kim, which discloses receiving an analog broadcast signal which includes additional encoded information, by also receiving digital broadcast

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signals which also include the additional encoded information, to provide the user the ability to view/receive multiple programs which are of a higher definition and ideally better quality than their analog counterpart.

In considering claims 3 and 10,

As stated above, with respect to claims 2 and 9, Kim does not disclose the reception of a transport stream (i.e. digital signals).

Transport streams typically include more than one program, where the transport stream includes service information, which describes the programs within the transport stream. The acquiring of a parameter from the service information included in the transport stream is notoriously well known in the art. Therefore, the examiner takes "OFFICIAL NOTICE" regarding a system, which obtains information from the service information included in a transport stream.

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify Kim, which discloses receiving an analog broadcast which also includes additional encoded information in the VBI used to control the display of the received picture, by also receiving the broadcast information in a digital broadcast (transport stream) and also obtaining the additional information included in the transport stream (i.e. service information) which would provide the viewer an ideally better quality image than the analog counterpart, while maintaining the capability of the display to adjust the user stored parameters based upon the type (genre) of the program received.

4b. Claims 7 and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kim, US 6,188,439 in view of Kim, US 6,172,719.

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In considering claims 7 and 14,

Kim (6,188,439) does not specifically disclose adjusting the control in accordance with the time of day.

Kim discloses that a system in which the genre data of a broadcasting signal detected is automatically converted into an appropriate signal according to a control signal previously stored in memory to provide the best condition for the video and audio.

The examiner incorporates Kim, US 6,172,719 which discloses a system which adjusts the color of the displayed picture based on the environmental temperature of the video appliance, so that a cool feeling is given from the picture when the environmental temperature is high, and a warm feeling is given from the picture when the environmental temperature is low, to provide the optimum picture to the viewers eye's sensation. Therefore, it would have been obvious to one of ordinary skill in the art to modify Kim which discloses the adjustment of display/audio setting based upon the detected genre of the received incoming signal, with Kim (6,172,719), in order to adjust the display/audio settings based upon the environmental temperature and the time of day, where the daytime temperature tends to be higher than the nighttime temperature, to provide the user an optimum viewing sensation when viewing the display.

### ***Conclusion***

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Brian Yenke whose telephone number is (703) 305-9871. The examiner work schedule is Monday-Thursday, 0730-1830 hrs.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's Supervisor, John W. Miller, can be reached at (703)305-4795.

**Any response to this action should be mailed to:**

Commissioner of Patents and Trademarks

Washington, D.C. 20231

**or faxed to:**

**(703) 872-9314**

Hand-delivered responses should be brought to Crystal Park II, 2121 Crystal Drive, Arlington, VA, Sixth Floor (Receptionist). Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Technology Center 2600 Customer Service Office whose telephone number is (703)305-HELP.

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also allows the submission of Computer Readable Format (CRF) sequence listings for pending biotechnology patent applications, which were filed in paper form.



BRIAN P. YENKE  
Primary Examiner  
Art Unit 2614



B.P.Y.  
18 February 2005